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**CHAPTER 45**  
**RESTRICTING ACCESS TO**  
**INFRACTION HISTORY**  
**INFORMATION**  
**I.C. 34-28-5-15 and I.C. 34-28-5-16**

**CONTACT:**  
**Jeffrey Wiese**  
[jeffrey.wiese@courts.in.gov](mailto:jeffrey.wiese@courts.in.gov)  
Direct: 317-234-1873  
30 S. Meridian St., Suite 500  
Indianapolis, IN 46204  
Main: 317-232-2542  
Fax: 317-233-6586

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**PROCEEDINGS TO RESTRICT DISCLOSURE OF AN INFRACTION**  
**WHEN A PERSON IS NOT CONVICTED**  
**OR THE CONVICTION IS VACATED**  
**[I.C. 34-28-5-15](#)**

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**Automatic Proceedings**

A court is required to act automatically in certain infraction cases. This requirement does not apply to individuals whose prosecution for an infraction has been deferred.

The court must take action to assist an individual charged with committing an infraction who:

- is not prosecuted or the charges are dismissed;
- is adjudged not to have committed the infraction, or
- is adjudged to have committed the infraction and the adjudication is subsequently vacated.

The judge in the court where the action was filed must order the clerk and the operator of any state, regional or local case management system, not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual.

**If There Should Have Been Automatic Proceedings**  
**But The Court Failed To Act**

If the court should have automatically ordered the clerk not to disclose information related to the infraction but failed to do so, an individual may file a verified petition requesting non-disclosure.

This petition may not be filed earlier than:

- 30 days after date of the judgment if the person was found not to have committed the infraction;
- 365 days after the person's adjudication is vacated, or
- 30 days after the action is dismissed, provided a new action is not filed

## **Special Provisions for Individuals Who Successfully Complete A Deferral Program or Who Have Satisfied All Terms of the Infraction Violation Judgment**

Individuals who have:

- successfully complete a deferral program or
- have satisfied the terms of the judgment imposed for the IF violation may file a verified petition the court to prohibit disclosure of information related to the infraction to a noncriminal justice organization or an individual.
- This petition may not be filed earlier than five (5) years after the individual whose prosecution for an infraction has been deferred; or who was found to have violated a statute defining an infraction; has satisfied the conditions of the deferral program or the judgment imposed for the violation.

If granted, the court shall order the clerk and the operator of any state, regional, or local case management system not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual.

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### **PRACTICE TIPS**

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Petitions filed under I.C. 34-28-5-15 must be timely filed either in the court where the charges were brought or where a trial was held or the court having jurisdiction over the violation for a person who entered a deferral program.

The petition should be filed under the case number of the original criminal case, but if the prosecution was dropped before a case number was assigned, the petition should be assigned an MC case type. No filing fee is required. If an MC is required, make sure to cross reference case numbers in the CCS for the MC and the original criminal case.

A copy of the petition must be served on the prosecuting attorney who has thirty days to file a notice in opposition.

The court may

- summarily grant the petition;
- set the matter for a hearing, or
- summarily deny the petition, if the court finds the petition is insufficient or based on documentary evidence submitted to the court that shows the petitioner is not entitled to have his or her records restricted.

The judge must set the matter for a hearing if a notice of opposition is filed and the court does not summarily grant or deny the petition.

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**AUTOMATIC RESTRICTION OF INFRACTION RECORDS  
AFTER 5 YEARS  
[I.C. 34-28-5-16](#)**

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**The provisions requiring the automatic restriction of infraction records after 5 years  
(I.C. 34-28-5-16) were repealed effective 7/1/2013.**

Last Revised 12/31/14